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**ZONING BOARD OF APPEALS
Ipswich, Massachusetts**

**Meeting Minutes
June 18, 2020**

Pursuant to a written notice posted by the Town Clerk and published in the Ipswich Local News, a newspaper of general circulation; the Ipswich Zoning Board of Appeals held a meeting on Thursday June 18, 2020 at 7:30 p.m. remotely via Zoom Video Conferencing, in accordance with the Governor's March 12, 2020 Order suspending provisions of the Open Meeting Law to promote public health and safety and social distancing during the corona virus public health emergency.

Members tuned in were Chair Robert Gambale, Benjamin Fierro, Lewis Vlahos, Becky Gayton and Robert Clocker and Associate Members Justin Planasch and Robert Tragert. Also, Administrative Assistant Marie Rodgers. Paul Haverty MHP was present for the 40B's located at Town Farm Rd & 25 Pleasant St.

This meeting was recorded.

Announcements:

Chairman Gambale announced the resignation of Becky Gayton long time member, her five year term ends this month and she has decided not to reapply. He thanked her for her contributions and wished her good luck in all her future endeavors.

Chair continued the following three public hearings, at the request of the applicants, to the July 16, 2020 meeting to be held in Room A in Town Hall or another remote meeting on Zoom at 7:30 p.m.

26 Essex Road (Assessor's Map 54A, Lot 14A) **36 Essex Road** (Map 54C, Lot 22); **38 Essex Road** (Map 54C, Lot 22A) **42 Essex Road**, (Map 54C, Lot 23) and **44 Essex Road** (Map 54C, Lot 24) **Essex Pastures, LLC** requests Comprehensive Permit approval, pursuant to MGL Ch. 40B, to construct one hundred ninety-four (194) residential rental units, of which forty-nine (49) units would be affordable to households earning no more than eighty-percent (80%) of the area median income. (continued from the June, 2018 all of 2019; through January, February, March, April and May 2020 meetings) *Documents and exhibits used by the Appeals Board: email from Attorney Smolak dated 6.18.2020 requesting to continue to the July 16, 2020 meeting.*

25 Pleasant Street, Elder Friendly Housing, LLC. Karl Mayer requests a Comprehensive Permit approval, pursuant to MGL Ch. 40B, to construct eight (8) age-restricted for-sale dwelling units of which 25% (2 units) would be subsidized for low to moderate income use. (Map 41B Lot 043) (continued from August 2018; all of 2019; March, April and May 2020 meetings) *Documents and exhibits used by the Appeals Board: email from Attorney Ross dated 6.15.2020 requesting to continue to the July 16, 2020 meeting.*

40 Pineswamp Road - Peter Pappalimberis requests an **Appeal** of the Building Commissioner's Violation Notice and Order under Zoning, but not necessarily limited to, Sections V.D and XI.G, to discontinue operating an establishment for the repair and/or service of automobiles, trucks and engines which is prohibited in RRA zoning district; unpermitted shed and/or prohibited storage containers; open storage of junk metal and storage of unregistered and unenclosed vehicles at **40 Pineswamp Road** (Assessor's Map 41A, Parcel 8A) (continued from the November 2019 and January, February, March, April and May 2020 meetings) *Documents and exhibits used by the Appeals Board: email from Attorney Panagiotakis Dated 6.18.2020 requesting to continue to the July 16, 2020 meeting.*

Continued Public Hearings:

30 and 34 Town Farm Road and 17 Locust Road, Kieran McAllen requests Comprehensive Permit approval, pursuant to MGL Ch. 40B, to construct 40 age-restricted for-sale dwelling units (20 duplexes), of which 25% would be subsidized for low to moderate income use (Assessor's Map 30B, Lots 63, 37A and 33) (continued from the May 2017; all of 2018; all of 2019; through January, February, March, April and May 2020 meetings) Chairman Gambale read the legal notice and re-opened the public hearing at 7:53 p.m.

The Petitioner Kieran McAllen, Patrick Bower, Civil Engineer, and Attorney Richard Kallman were present. Attorney Paul Haverly from MHP led the Board in review of the 27 page draft comprehensive permit. Local preference was discussed; the Board agreed to change the percentage of affordable unit set aside for local preference from 70% to 50%. Hours of construction operations were discussed. Review continued and it was noted that next month there will be four members voting and all four votes will be required in the affirmative to grant the permit.

As there were no further comments or discussion, **Chair continued the public hearing to the July 16, 2020 meeting to be held in Room A in Town Hall or remotely via Zoom at 7:30 p.m.**

Documents and exhibits used by the Appeals Board: draft comprehensive decision for 30 and 34 Town Farm Road and 17 Locust Road 27 pages

5 Hickory Lane, Douglas Smith for a **Special Permit** pursuant to, but not necessarily limited to Sections XI.J and VI.F, Requirements for Accessory Buildings and Structures, to construct an Accessory Structure (1,260 sq. ft.) greater than the allowed 750 square feet located in the Rural Residential A (RRA) Zoning District. (Assessor's Map 38C, Lot 026) continued from the March and April meetings.

Chairman Gambale read the legal notice and re-opened the public hearing at 9:08 p.m.

The Petitioner was tuned in and represented by his Architect Ken Savoie of Savoie Nolan Architects, LLC 4 S. Main Street, Ipswich. In response to comments made at the May ZBA meeting, he reviewed the revised drawings for the proposed accessory building. The site plan was revised to shift the building further back into the slope of the hill. This changes the average existing grade around the foundation, which along with a small change in the roof profile brings the ridge height within the 25 foot maximum height. As a result, a request for a waiver on building height is no longer needed. The upper level of the structure eliminated the shower stall and a half bath is now proposed.

Discussion took place, the Board was pleased that the Petitioner addressed their concerns. There were no objections or comments from members of the public.

Mr. Fierro reviewed the applicable sections of the Bylaw and identified the Zoning Board of Appeals as the special permit granting authority for accessory structures greater than 750 s.f.

He then reviewed the criteria II Applicability A and B citing the benefit to the Town outweighs the adverse effects of the proposed use or action, taking into account the characteristics of the site and proposal in relation to that site; and the Petitioner's application included, in the Board's opinion, sufficiently detailed and credible information to show the project meets the intent of this bylaw.

MOTION:

Mr. Fierro moved the Board find the applicant has met the criteria under section II Applicability A and B. Mr. Vlahos seconded and the motion passed unanimously with a roll call vote.

MOTION:

Mr. Fierro moved that the Board make the findings 1-6 as set forth in section XI.J for the special permit criteria. Mr. Vlahos seconded. The motion passed unanimously with a roll call vote; Fierro, yes; Clocker, yes; Gayton, yes; Vlahos, yes; and Gambale, yes.

MOTION: Mr. Fierro reviewed the criteria under section XI.J special permits and moved the Board find the proposal has met make beneficial substantial improvements of the property, adverse effects are minimal, the structure will be in character with the neighborhood. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

MOTION: Mr. Fierro moved the Board grant the special permit as requested by the Petitioner from the provisions of VI. F requirements for Accessory Building and Structures and XI.J to construct an accessory structure not to exceed 1,260 s.f. as show on plans titled Detached Garage at the Smith Residence 5 Hickory Lane dated 2.24.2020 rev date 6.4.2020 AND Revised Site plan –Building Section –Upper Level/Loft Floor Plan. Mr. Vlahos seconded. The motion passed unanimously with a roll call vote; Fierro, yes; Clocker, yes; Gayton, yes; Vlahos, yes; and Gambale, yes.

Documents and exhibits used by the Appeals Board: Petition and associated documents. Letters of support from Robert and Kathleen Sheridan, 6 Hickory Ln; Stephen and Meghan Moses, 10 Hickory Ln and Tyler and Rachel DeStefano, 4 Hickory Lane all dated 2.24.2020; statement from Petitioner re: John Duffy, 7 Hickory Ln. verbally supports barn, no issues with it. Email 5.27.2020 from Paul Hurd, 65 Old Right Rd, in support, rescinding his previous reservations. Revised Site plan –Building Section –Upper Level/Loft Floor Plan -

217 Argilla Road, Jeffrey Allsopp requests a special permit pursuant to, but not limited to Section XI.J and II.B.2 to replace the existing non-conforming barn with a new barn within the existing footprint, no closer than 6'.6" to the right side yard setback. (Assessor's Map 44, Lot 34) in the Rural Residential A (RRA) Zoning District. (continued from the May meeting) Chairman Gambale read the legal notice and opened the public hearing at 9:25 p.m.

The owner Elizabeth Townsend was present.

Chairman Gambale initiated discussion concerning the recent review by the Historical Commission of the 100 year old barn. It was agreed that this building is not of any "historical significance" as defined by the Town's Demolition Review Bylaw.

Discussion took place concerning the condition and location of the barn. The proposal is for it to extend five feet further into the property and moving the right side yard setback from the existing 6'.1" to no closer than 6'.6".

There were no objections or comments from members of the public.

Mr. Fierro led the Board in review of the bylaws.

MOTION: Mr. Fierro moved that the Board make the finding that it may grant relief sought under II Applicability B. 2 Legally Existing Nonconforming Structures, other than single and two family dwellings. The change will not increase the nonconformity and will not be more substantially detrimental to the neighborhood than the existing non-conforming structure. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Mr. Fierro reviewed the criteria for a special permit under XI. J. criteria 1-6 citing the economic need, fiscal impact on town services. Discussion took place, the Petitioner confirmed the barn will be serviced with electricity and cold water only; no connection to the septic system. Mr. Fierro continued, there are adequate utilities and neighborhood character the barn cannot be seen from the street, it is a very small barn 396 square feet, with no environmental impact.

MOTION: Mr. Fierro moved the Board find the Petitioner has met the criteria as stated. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Discussion took place concerning services to the barn. Usually, the Board only allows a cold water spigot.

MOTION: Mr. Fierro moved that the Board grant the special permit as requested by the applicant from the provision of the Protective Zoning bylaw II.B2 and section IX.J for reconstruction of a legally existing non-conforming barn, not to exceed 396 square feet, no closer than 6'.6" feet to the right yard setback provided only cold water service allowed, in accordance with plans titled Proposed Barn Replacement #217 Argilla Road Donohoe Survey, Inc. dated 3.2.2020

Documents and exhibits used by the Appeals Board: Petition application and associated documentation; email dated 4.5.2020 from Betsy Clapp in support.

221 High Street, John Pardee requests a special permit pursuant to, but not limited to IX.J and XI.J for an Accessory Apartment. (Assessor's Map 20D Lot 35) in the Rural Residential A (RRA) Zoning District.

Chairman Gambale read the legal notice and opened the public hearing at 9:41 p.m. The Petitioner was tuned in.

Discussion was held concerning the floor plan, the number of bedrooms allowed, the office space and what constitutes a bedroom. Photos of the property were viewed and the Board and Petitioner discussed location of the entrances.

The Board determined the entrance to the apartment was on the side. The Petitioner agreed to remove the door on the office room. The Board will condition the permit for a revised plan to be submitted before the building permit is issued along with a photo.

Mr. Fierro reviewed the applicable sections of the Bylaw and identified the Zoning Board of Appeals as the special permit granting authority for accessory apartments in all districts. The accessory apartment measures 768 square feet, with a new side and rear entrance.

There were no objections or comments from members of the public.

MOTION:

Mr. Fierro moved the Board find the applicant has met the criteria under section IX.J 2. a and b. Mr. Vlahos seconded and the motion passed unanimously with a roll call vote.

Mr. Fierro led the Board in review for criteria for a special permit. A single family dwelling with adequate utilities, the septic system is newly installed; a small accessory apartment does not diminish neighborhood character, minimal impacts on the natural environment. Social economic needs or community needs improvement of the property; and will provide the need for additional housing, potential fiscal impact, including impact on town services, tax base will increase, there is adequate parking, there are adequate utilities, it is compatibility with neighborhood character and there are no impacts on the natural environment.

MOTION: Mr. Fierro moved the Board find conditions in sections XI. J. 2. letters a and b and 1-6 have been met. Mr. Vlahos seconded, the motion passed unanimously.

MOTION:

Mr. Fierro moved the Board grant a special permit as requested from the provisions of the Protective Zoning Bylaw section VI. J and IX.J for an accessory apartment no greater than 768 square feet, as referenced on hand sketched plan titled Proposed Entrance, no date and Petitioner's application with two pages of drawings for a one bedroom accessory apartment; subject to the removal of office door and submittal of revised plans and photos showing the alterations. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

Documents and exhibits used by the Appeals Board: Petition application and associated documentation and photos.

120 County Road, ROLE Realty Trust –Roger LeBlanc requests a special permit pursuant to, but not limited to Section XI.J and IIB.2.a to replace in-kind the legally existing nonconforming structure (units 18 thru 27) upgrading in accordance with building and safety codes. (Assessor's Map 54A, Lot 9) in the Highway Business (HB) Zoning District. Chairman Gambale read the legal notice and opened the public hearing at 10:11 p.m.

Roger LeBlanc, 14 Mill Road and Sarah Winderlin, RDL Apartments, 120 County Road were present.

Their Architect Ken Savoie of Savoie Nolan Architects, was logged on initially, but then was logged off for the rest of the hearing.

A Special Permit was granted earlier this year to upgrade the property and to convert the motel to multifamily residential studio units with kitchenettes.

Mr. LeBlanc described the unanticipated challenges with the renovations in the section of the building built in 1959. This section begins at room 18 and runs westerly through room 27. All of those rooms have a crawl space underneath. The National Fire Protection Safety Code was updated in 2015 requiring a full sprinkler system in crawlspaces of 18" or more, in sidewalls with an overhang in excess of 4' (current overhang is 4'1") and in the attic. The ceiling/attic construction of that section will not easily accommodate the insulation or structural work needed to maintain a sprinkler system throughout it. In addition to safety code challenges, the unit layouts are cramped and poorly configured. The Special Permit request will allow for the reconstruction of the 1959 section, rooms 18-27, and replace 'in kind', maintaining the same number of units with a slight reduction in building volume. The front wall of the rooms would be pulled back 7" reducing the overhang.

There will be no additional units, the building height will not change, the depth of the building will not change; there will be no patios facing the apartment building in back, only those facing Essex Road Exterior finishes will all be the same and match the existing. The use was determined in a previous decision dated 1.23.2020.

MOTION: Mr. Fierro moved the Board make the finding that it may grant relief sought under II Applicability B. 2 legally pre-existing nonconforming structures, other than single and two family dwellings. The change will not increase the nonconformity and will not be more substantially detrimental to the neighborhood than the existing non-conforming structure. Mr. Vlahos seconded, the motion passed unanimously with a roll call vote.

MOTION: Mr. Fierro moved the Board make the finding that it may grant relief sought under section XI.J.2 for granting of a special permit. Mr. Vlahos seconded the motion passed with a roll call vote.

MOTION: Mr. Fierro moved the Board find conditions in sections XI. J. 2 criteria the conversion to affordable rental units from motel units will provide a significant benefit to the town by creating much needed affordable housing while not removing any undeveloped land. The adaptive reuse of the property will address community needs; there will be no fiscal impact on the town as the structures exist and the town will not need to provide any additional services; there is sufficient parking on site; utility services there will be no change to storm water impacts or other public services; compatibility with neighborhood character, the conversion from a motel to dwelling units, there will be little impact; there will be no impact on the natural environment given the existing conditions and limited changes proposed. Mr. Vlahos seconded the motion passed with a roll call vote.

MOTION: Mr. Fierro moved to grant the special permit as requested by the Petitioner for the reconstruction of the legally pre-existing nonconforming structure pursuant to plans submitted by Ken Savoie Nolan Architects titled Renovations to The Whittier Motel, 120 Count Rd., dated 6/10/20; subject to the condition that except for an emergency, demolition and reconstruction be limited to the hours of 7:00 a.m. to 5:00 p.m. Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday, with no activity on Sunday. Mr. Vlahos seconded the motion passed with a roll call vote.

Documents and exhibits used by the Appeals Board: Petition application and associated documentation. Proposed Basement Plan; Existing Basement floor Plan; Existing First Floor Plan; Proposed First Floor Plan all dated 6/10/20.

Approval of Minutes:

Mr. Fierro moved to approve meeting minutes of 5.21.2020 with minor edits. Ms. Gayton seconded, the motion passed unanimously. *(meeting minutes hereby incorporated by reference)*

Adjourn - It was moved, seconded and unanimously voted to adjourn at 10:50 p.m.

Respectfully submitted,

Marie Rodgers
Administrative Assistant

These minutes were approved, with minor edits by the Board on 7/16/2020.

Pursuant to the 'Open Meeting Law' the approval of these minutes by the Board constitutes a certification of the date, time and place of the meeting; the members present or absent; the findings made and actions taken. Any other description of statements made by any person, or the summary of the discussion on any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Board as to the completeness or accuracy of such statements.